Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend 33 CFR part 402, Tariff of Tolls, as follows:

PART 402—TARIFF OF TOLLS

1. The authority citation for part 402 would continue to read as follows:

Authority: 33 U.S.C. 983(a), 984(a)(4) and 988, as amended; 49 CFR 1.52.

2. § 402.8 would be revised to read as follows:

§ 402.8 Schedule of tolls.

Column 1: item no./description of charges	Column 2: rate ($) Montreal to or from Lake Ontario (5 locks)	Column 3: rate ($) Welland Canal—Lake Ontario to or from Lake Erie (8 locks)
1. Subject to item 3, for complete transit of the Seaway, a composite toll, comprising:		
(1) a charge per gross registered ton of the ship, applicable whether the ship is wholly or partially laden, or is in ballast, and the gross registered tonnage being calculated according to prescribed rules for measurement in the United States or under the International Convention on Tonnage Measurement of Ships, 1969, as amended from time to time.	0.0928	0.1507
(2) a charge per metric ton of cargo as certified on the ship's manifest or other document, as follows:		
(a) bulk cargo	0.9624	0.6376
(b) general cargo	2.3187	1.0204
(c) steel slab	2.0985	0.7305
(d) containerized cargo	0.9624	0.6376
(e) government aid cargo	n/a	n/a
(f) grain	0.5912	0.6376
(g) coal	0.5681	0.6376
(3) a charge per passenger per lock	1.3680	1.3680
(4) a charge per lock for transit of the Welland Canal in either direction by cargo ships:		
(a) loaded	n/a	509.22
(b) in ballast	n/a	376.23
2. Subject to item 3, for partial transit of the Seaway	20 per cent per lock of the applicable charge under items 1(1) and (2) plus the applicable charge under items 1(3) and (4)..	13 per cent per lock of the applicable charge under items 1(1) and (2) plus the applicable charge under items 1(3) and (4).
3. Minimum charge per ship per lock transited for full or partial transit of the Seaway	20.00	20.00
4. A rebate applicable to the rates of item 1 to 3	n/a	n/a
5. A charge per pleasure craft per lock transited for full or partial transit of the Seaway, including applicable Federal taxes [1].	20.00	20.00
6. In lieu of item 1(4), for vessel carrying new cargo or returning ballast after carrying new cargo, a charge per gross registered ton of the ship, the gross registered tonnage being calculated according to item 1(1):		
(a) loaded	n/a	0.1500
(b) in ballast	n/a	0.1100

[1] The applicable charge at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) for pleasure craft is $25 U.S., or $30 Canadian per lock. The applicable charge under item 3 at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) will be collected in U.S. dollars. The other amounts are in Canadian dollars and are for the Canadian Share of tolls. The collection of the U.S. portion of tolls for commercial vessels is waived by law (33 U.S.C. 988a(a)).

Saint Lawrence Seaway Development Corporation.

Issued at Washington, DC on March 11, 2005.

Albert S. Jacquez,

Administrator.

[FR Doc. 05–5794 Filed 3–23–05; 8:45 am]

BILLING CODE 4910–61–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 01–92; FCC 05–33]

Developing a Unified Intercarrier Compensation Regime

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this document, the Commission seeks comment on plans and principles submitted by telecommunications industry groups, and on alternative measures, for comprehensive reform of the current intercarrier compensation system. The Commission seeks comment on the legal issues, network interconnection issues, cost recovery issues and implementation issues related to these plans and alternative measures in order to transition to a unified intercarrier compensation regime.

DATES: Submit comments on or before May 23, 2005. Submit reply comments on or before June 22, 2005.

ADDRESSES: You may submit comments, identified by CC DOCKET NO. 01–92, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fcc.gov*. Follow the instructions for submitting comments on the Electronic Comment Filing System (ECFS)/*http://www.fcc.gov/cgb/ecfs/*.
- E-mail: To *victoria.goldberg@fcc.gov*. Include CC Docket 01–92 in the subject line of the message.
- Fax: To the attention of Victoria Goldberg at 202–418–1587. Include CC Docket 01–92 on the cover page.
- Mail: All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary,

Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties should also send a copy of their filings to Victoria Goldberg, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5–A266, 445 12th Street, SW., Washington, DC 20554.

- Hand Delivery/Courier: The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

—The filing hours at this location are 8 a.m. to 7 p.m.
—All hand deliveries must be held together with rubber bands or fasteners.
—Any envelopes must be disposed of before entering the building.
—Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

Instructions: All submissions received must include the agency name and docket number. All comments received will be posted without change to *http://www.fcc.gov/cgb/ecfs/*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Comment Filing Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Victoria Goldberg, Wireline Competition Bureau, Pricing Policy Division, (202) 418–7353.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking in CC Docket No. 01–92, adopted on February 10, 2005 and released on March 3, 2005. The complete text of this Further Notice of Proposed Rulemaking is available for public inspection Monday through Thursday from 8 a.m. to 4:30 p.m. and Friday from 8 a.m. to 11:30 a.m. in the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. The complete text is also available on the Commission's Internet site at *http://www. fcc.gov*. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365. The complete text of the Further Notice of Proposed Rulemaking (FNPRM) may be purchased from the Commission's duplicating contractor, Best Copying and Printing, Inc., Room CY–B402, 445 Twelfth Street, SW., Washington, DC 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or e-mail at *http://www.bcpiweb.com*.

Synopsis of Further Notice of Proposed Rulemaking

1. In 2001, the Commission issued a Notice of Proposed Rulemaking to begin the process of intercarrier compensation reform, *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket 01–92, Notice of Proposed Rulemaking, 66 FR 28410, May 23, 2001 (*Intercarrier Compensation NPRM*). The Commission received extensive comment on the *Intercarrier Compensation NPRM* including several proposals for comprehensive reform of the existing intercarrier compensation regime submitted by industry groups. With this FNPRM, the Commission continues the process of intercarrier compensation reform by seeking comment on the industry proposals, and on other matters raised in response to the *Intercarrier Compensation NPRM*.

2. The record in this proceeding shows that the three basic principles underlying existing intercarrier compensation regimes must be re-examined in light of significant market developments since the adoption of the access charge and reciprocal compensation rules. First, the existing compensation regimes are based on jurisdictional and regulatory distinctions that are not tied to economic or technical differences between services. These artificial distinctions distort the telecommunications markets at the expense of healthy competition. Moreover, the availability of bundled service offerings and novel services blur the traditional industry and regulatory distinctions that serve as the foundation of the current rules. Second, the existing compensation regimes are predicated on the recovery of average costs on a per-minute basis. Advancements in telecommunications infrastructure affect the way carrier costs are incurred and call into question to use of per-minute pricing. Third, under the existing regimes, the calling party's carrier, whether local exchange carrier (LEC), interexchange carrier (IXC), or commercial mobile radio service (CMRS) provider, compensates the called party's carrier for terminating the call. Developments in the ability of consumers to manage their own telecommunications services undermine the premise that the calling party is the sole cost causer and should be responsible for all the costs of a call. There are a number of additional criteria the commission must consider in assessing whether a particular proposal will help achieve its policy goals. For example, any proposal for reform of compensation mechanisms should address the impact of such changes on network interconnection rules. In addition, any reform proposal should explain the Commission's legal authority to adopt it.

3. Acknowledging that significant reform might be needed, the Commission requested comment in the *Intercarrier Compensation NPRM* on the appropriate goals of intercarrier compensation regulation in a competitive market and discussed specific goals that should be considered in evaluating a new regime. Based on the record, the Commission agrees with commenters that any new approach should promote economic efficiency. Preservation of universal service is another priority under the Act and the Commission recognizes that fulfillment of this mandate must be a consideration in the development of any intercarrier compensation regime. The Commission also agrees that any new intercarrier compensation approach must be competitively and technologically neutral.

4. Having concluded that there is an urgent need to reform the existing intercarrier compensation rules, the Commission now turns to the question of what reforms best serve the goals identified. In the *Intercarrier Compensation NPRM*, the Commission re-evaluated the rationale for the traditional calling party network pays (CPNP) regimes and identified new approaches to intercarrier compensation, including a bill-and-keep approach. Under a bill-and-keep approach, neither of the interconnecting networks charges the other network for terminating traffic that originates on the other carrier's network.

5. Attached as an appendix to the FNPRM is an analysis of comments filed regarding bill-and-keep in response to the *Intercarrier Compensation NPRM*. The views expressed in this staff analysis do not represent the views of, and are not endorsed by, the Commission.

6. In parallel with the Commission's consideration of the record developed in response to the *Intercarrier Compensation NPRM*, various industry groups have been negotiating proposals for comprehensive reform of federal and state intercarrier compensation mechanisms. These negotiations have resulted in proposals from a number of groups—the Intercarrier Compensation Forum (ICF), the Expanded Portland

Group (EPG), the Alliance for Rational Intercarrier Compensation (ARIC), the Cost-Based Intercarrier Compensation Coalition (CBICC), and two rural LECs, Home Telephone Company and PBT Telecom (Home/PBT). In addition, the Commission discusses a statement of principles submitted by CTIA as well as a specific reform proposal filed by Western Wireless. The Commission also discusses a proposal by the National Association of State Utility Consumer Advocates (NASUCA) that would reduce certain intercarrier compensation rates. Moreover, the National Association of Regulatory Utility Commissioners (NARUC) has developed a set of principles that it believes should guide any consideration of intercarrier compensation reform.

Description of Industry Proposals

7. *Intercarrier Compensation Forum (ICF).* The ICF is a diverse group of nine carriers that represent different segments of the telecommunications industry. The ICF has developed a comprehensive plan for reforming current network interconnection, intercarrier compensation, and universal service rules. With respect to network interconnection, the ICF plan establishes default technical and financial rules that generally require an originating carrier to deliver traffic to the ''Edge'' of a terminating carrier's network. With respect to compensation, the ICF plan would reduce per-minute termination rates from existing levels to zero over a six-year period. Revenue eliminated as a result of the transition to bill-and-keep under the ICF plan would be replaced by a combination of end-user charges and a new universal service support mechanism.

8. *Expanded Portland Group (EPG).* The EPG is a group of small and mid-sized rural LECs that came together to develop a proposal distinct from a bill-and-keep mechanism. Stage one of the EPG proposal is intended to address more immediate issues arising under the current regimes, including unidentified or ''phantom'' traffic, the scope of the ESP exemption, and the termination of traffic in the absence of agreements between carriers. In the second stage of the EPG plan, all per-minute rates would be set at the level of interstate access charges and a new Access Restructure Charge would be implemented to make up any revenue shortfall.

9. *Alliance for Rational Intercarrier Compensation (ARIC)—Fair Affordable Comprehensive Telecom Solution (FACTS).* ARIC is comprised of small telecommunications companies providing service in rural, high-cost areas. The FACTS plan developed by ARIC calls for a unified per-minute rate for all types of traffic that would be capped at a level based on a carrier's unseparated, interoffice embedded costs. In addition to more uniform rates, the FACTS plan calls for local retail rate rebalancing to benchmark levels established by state commissions, and includes a joint process by which the Commission and the states review the procedures and data to determine the appropriate unified rates.

10. *Cost-Based Intercarrier Compensation Coalition (CBICC).* The CBICC is a coalition of competitive LECs. Under the CBICC proposal, carriers would adopt a single termination rate in each geographic area that would apply to all types of traffic. The rate would be based on the incumbent LEC's cost of providing tandem switching, transport, and end office switching, calculated using the Commission's total element long-run incremental cost (TELRIC) methodology.

11. *Home Telephone Company and PBT Telecom (Home/PBT).* Home Telephone Company and PBT Telecom are rural LECs that developed an alternative proposal to those advanced by the larger groups discussed above. Under this proposal, all carriers offering service to customers that make telecommunications calls would be required to connect to the public switched telephone network (PSTN) and obtain numbers for assignment to customers. The plan would replace existing per-minute access charges and reciprocal compensation with connection-based intercarrier charges.

12. *Western Wireless Proposal.* Western Wireless is a wireless carrier that has been designated as an eligible telecommunications carrier (ETC) in 14 states and the Pine Ridge Indian reservation. On December 1, 2004, Western Wireless submitted a reform plan based on a unified bill-and-keep system for all forms of traffic. This plan would reduce per-minute compensation rates to bill-and-keep in equal steps using targeted reductions over a four-year period, with a longer transition period for small rural incumbent LECs.

13. *National Association of State Utility Consumer Advocates (NASUCA) Principles.* NASUCA advocates a minimalist approach that addresses the disparity among some existing intercarrier compensation rates and reduces certain rate levels over a five-year period. Under the NASUCA plan, the Commission would establish a target rate in each year of a five-year transition down to a rate of $0.0055 per minute. State commissions would be encouraged to match the target rate for intrastate rates, but they would retain authority concerning how to reach that rate. In addition to its proposal, NASUCA urges the Commission to reject efforts to guarantee current revenue streams, such as access revenues.

14. *NARUC Principles.* In an effort to create a vehicle for evaluating the various reform proposals developed by the industry, a group of NARUC commissioners and staff developed a set of principles addressing the design and functioning of any new intercarrier compensation plan, as well as prerequisites for implementation of any plan. Among other things, NARUC favors the application of a unified regime to all companies that exchange traffic over the Public Switched Telephone Network.

15. *CTIA—The Wireless Association (CTIA) Principles.* CTIA submitted a statement of principles for the Commission to consider as part of its review of any proposals to reform intercarrier compensation. CTIA supports a bill-and-keep approach to intercarrier compensation reform under which carriers would have the flexibility to design their rate structures to recover a larger portion of costs from end-user customers—while ensuring that end-user rates remain affordable. In terms of universal service reform, CTIA supports the creation of a single, unified universal service support mechanism that calculates support based on the forward-looking economic costs of serving customers.

16. The Commission commends all the industry parties that have been involved in the process of developing these proposals for their substantial efforts to reach agreement on these complicated issues. The Commission also commends the work done by NARUC in developing a set of principles that can be used in evaluating these proposals. Many of the principles identified by NARUC are consistent with the policy goals the Commission has identified above. Given the extensive negotiations that formed the basis for some of these proposals, the Commission asks parties to comment on whether it is preferable for the Commission to adopt a single proposal in its entirety, rather than adopting a modified version of any particular proposal or attempting to combine different components from individual plans. The Commission seeks comment on implementation and transition issues if it were to adopt one proposal or combine different components of the plans.

Legal Issues

17. As the Commission considers the record developed in response to the *Intercarrier Compensation NPRM* and the specific proposals recently filed in this proceeding, it is mindful of its obligation to comply with the statutory provisions governing intercarrier compensation, such as sections 251(b)(5) and 252(d)(2) of the Telecommunications Act of 1996, Public Law No. 104–104, 110 Stat. 96 (1996) (codified at 47 U.S.C. 151 *et seq.*) (Act). In addition, the Commission recognizes that any unified regime requires reform of intrastate access charges, which are subject to state jurisdiction. In this section, the Commission asks parties to consider these and other legal issues associated with comprehensive reform efforts.

18. Section 252(d)(2) of the Act sets forth an ''additional cost'' standard for reciprocal compensation under section 251(b)(5). The Commission interpreted the ''additional cost'' standard of section 252(d)(2) to permit the use of the TELRIC cost standard that was established for interconnection and unbundled elements. In this section, the Commission solicits comment on whether this standard is, or could be, satisfied by the various reform proposals. Additionally, if the Commission decides to retain the current TELRIC methodology for reciprocal compensation, the Commission asks parties to address whether it should define more precisely what costs are traffic-sensitive, and thus recoverable through reciprocal compensation charges, and what costs are non-traffic-sensitive, and not recoverable through reciprocal compensation charges. Also, the Commission invites comment on the proposition that digital switching costs no longer vary with minutes of use due to increased processor capacity. Additionally, the Commission solicits comment on which components of a wireless network should be considered traffic sensitive. Once the Commission identifies the traffic-sensitive costs, it must determine whether those costs should be recovered on a per-minute or flat-rated capacity basis.

19. The statutory pricing standard for reciprocal compensation (''additional cost'') is not the same as the statutory pricing standard for unbundled network elements (UNEs) (cost plus a reasonable profit) set forth in the Act. The Commission's experience suggests that TELRIC is not necessarily consistent with the ''additional cost'' standard. Specifically, TELRIC measures the *average* cost of providing a function, which is not necessarily the same as the *additional* cost of providing that function. The Commission solicits comment on whether a true incremental cost methodology is more appropriate for establishing ''additional costs'' under section 252(d)(2).

20. The Commission seeks comment on whether it could use its authority under section 10 of the Act to forbear from certain aspects of the compensation requirement of section 251(b)(5) as part of any intercarrier compensation reform effort. The Commission assumes that, if any forbearance were needed to support a bill-and-keep regime, such forbearance would apply only with respect to the compensation requirement of section 251(b)(5) and not to the requirement to enter into reciprocal arrangements for the transport and termination of traffic. The Commission also seeks comment on whether the bar to forbearance contained in section 10(d) precludes exercise of forbearance in this case. Assuming that it can forbear from imposing section 251(b) obligations, the Commission solicits comment on whether it also should forbear from enforcing the compensation requirement contained in section 271(c)(2)(B)(xiii).

21. Because access charges for intrastate traffic historically have been an area within the exclusive jurisdiction of state commissions, any proposal that includes reform of intrastate mechanisms must address the Commission's legal authority to implement such reform. Accordingly, the Commission seeks comment on alternative legal theories under which it could reform intrastate access charges. The Commission also solicits comment on whether it should refer any of the issues related to intrastate access charges to a Federal-State Joint Board, and whether any of the issues addressed in this FNPRM fall within the scope of the mandatory referral requirement of section 410(c) of the Act. Additionally, the Commission seeks comment on the legal analysis presented by the reform proposals concerning the Commission's authority over intrastate access reform, and specifically whether the changes wrought by the 1996 Act give the Commission the power to assert authority over the intrastate charges at issue in this proceeding.

22. In section 254(g) of the Act, Congress codified the Commission's pre-existing geographic rate averaging and rate integration policies. The Commission implemented section 254(g) by adopting two requirements. First, providers of interexchange telecommunications services are required to charge rates in rural and high-cost areas that are no higher than the rates they charge in urban areas. This is known as the geographic rate averaging rule. Second, providers of interexchange telecommunications services are required to charge rates in each state that are no higher than those in any other state. This is known as the rate integration rule.

23. Absent some further reform of the access charge regime, the Commission is concerned that the rate averaging and rate integration requirements eventually will have the effect of discouraging IXCs from serving rural areas. These requirements may place IXCs that serve rural areas at a competitive disadvantage to those that focus on serving urban areas. The Commission asks parties to comment on the relationship between the rate averaging and rate integration requirements and the access charge reform proposals described above. Do any of the proposals ease concerns about the disparate impact of rate averaging and rate integration requirements on nationwide IXCs? If not, are there additional steps the Commission should take to address these concerns?

Network Interconnection Issues

24. Under section 251(c)(2)(B), an incumbent LEC must allow a requesting telecommunications carrier to interconnect at any technically feasible point. The Commission has interpreted this provision to mean that competitive LECs have the option to interconnect at a single point of interconnection (POI) per local access transport area (LATA). In addition, the Commission's rules preclude a LEC from charging carriers for traffic that originates on the LEC's network. In the *Intercarrier Compensation NPRM*, the Commission solicited comment on whether an incumbent LEC should be obligated to bear its own costs of delivering traffic to a single POI when that POI is located outside the calling party's local calling area.

25. In response to the *Intercarrier Compensation NPRM*, most competitive LECs and CMRS providers urge the Commission to maintain the single POI per LATA rule. Other commenters suggest that the interconnecting carrier selecting the POI be responsible for some portion of the transport costs to a POI located outside the local calling area, or that the interconnecting carrier establish additional POIs once certain criteria are met.

26. The comments confirm that issues related to the location of the POI and the allocation of transport costs are some of the most contentious issues in interconnection proceedings. In

particular, the record suggests that there are a substantial number of disputes related to how carriers should allocate interconnection costs, particularly when the physical POI is located outside the local calling area where the call originates or when carriers are indirectly interconnected.

27. In this FNPRM, the Commission solicits additional comment on changes to its network interconnection rules to accompany proposed changes to the intercarrier compensation regimes. The Commission asks parties to comment on the network interconnection proposals in the record and on the ICF's proposed default network interconnection rules. The Commission also seeks comment on whether it should consider different network interconnection rules for small incumbent LECs or rural LECs, and whether changing its pricing methodology for reciprocal compensation will have any effect on the incentives of competitive carriers, including CMRS providers, to establish multiple POIs. Finally, the Commission asks parties to address whether any additional rule changes are needed to harmonize the network interconnection rules that apply to section 251(b)(5) traffic with the rules that apply to access traffic.

Cost Recovery Issues

28. Many of the reform proposals include mechanisms by which some carriers will be permitted to offset revenues previously recovered through interstate access charges. Other proposals question the need to offset revenues and oppose proposals that include revenue guarantees or assumptions concerning revenue neutrality. The Commission solicits comment on whether these mechanisms, or something comparable, must be adopted if it reduces or eliminates the ability of LECs to impose interstate switched access charges on IXCs. The Commission asks parties to comment on whether it should rely solely on end-user charges, or whether it also should rely on universal service support mechanisms (new or existing) to offset revenues no longer recovered through interstate access charges.

29. Additionally, if a cap on federal subscriber charges is needed, the Commission asks parties to comment on the level at which the cap should be set if the jurisdictionally interstate costs of providing switched access no longer are recovered from IXCs through access charges. The Commission also asks parties to discuss what type of findings it must make before using additional universal service funding to offset lost access charge revenues. Commenters should also address the competitive neutrality of any new proposed universal service mechanism with respect to competitive eligible telecommunications carriers, and should comment on alternative approaches that would give LECs the opportunity to recover costs previously recovered from IXCs through interstate access charges. The Commission also asks parties to comment on the impact on consumers of replacing access charges with additional subscriber charges and/or universal service support.

30. As compared to price cap LECs, rate-of-return LECs derive a much greater share of their revenue from access charges. Because many rate-of-return LECs depend so heavily on access charge revenue, some of the proposals submitted in this proceeding include special provisions for these carriers. The Commission seeks comment on the extent to which it should give rate-of-return LECs the opportunity to offset lost access charge revenues with additional universal service funding, additional subscriber charges, or some combination of the two. To the extent it decides that additional universal service support also is necessary, the Commission seeks comment on how much additional support it must provide and how such support should be distributed.

31. If the Commission concludes that additional universal service funding is necessary, one possible approach would be to provide such funding through the interstate common line support (ICLS) mechanism. Under such a methodology, ICLS would be expanded to include not just common line costs, but also switching and transport costs. Alternatively, the Commission could create a new interstate access support mechanism. With respect to any proposed support methodologies, commenters should provide a detailed explanation as to how support should be calculated and the administrative burdens involved. Commenters should also address the competitive neutrality of any new proposed universal service mechanisms with respect to competitive eligible telecommunications carriers.

32. If the Commission acts to reduce or eliminate intrastate switched access charges, it may be necessary to give price cap and rate-of-return LECs the opportunity to offset those revenue losses with alternative cost recovery mechanisms. As with interstate access charges, the two primary mechanisms for doing this are increased subscriber charges and increased universal service funding. The Commission asks parties to comment on how these mechanisms should be structured to give LECs the opportunity to offset lost intrastate access charge revenue. The Commission asks parties to address the same questions concerning cost recovery of interstate access charges as they relate to intrastate access charges. The Commission also seeks comment on whether it should create a federal mechanism to offset any lost intrastate revenues, or whether the states should be responsible for establishing alternative cost recovery mechanisms for LECs within the intrastate jurisdiction.

Implementation Issues

33. Under the Commission's access charge regime, the rates, terms and conditions under which carriers provide interstate access services are generally contained in tariffs filed with the Commission. In contrast, the exchange of traffic under section 251(b)(5) is governed by interconnection agreements. The Commission seeks comment on how to reconcile these two approaches if it moves to a unified rate for all types of traffic. The Commission asks parties to identify any unique obstacles that may arise for rate-of-return LECs in connection with a regime based solely on agreements and to propose solutions to overcome those obstacles.

34. Given the substantial changes that are possible in this rulemaking, the Commission seeks comment on what type of transition would be needed for a new regime. Parties also should address whether there are any adverse consequences associated with transitioning rate-of-return LECs toward a new unified regime at a slower pace than price cap LECs.

35. Additionally, if the Commission moves to reduce, and possibly eliminate, the imposition of access charges by rate-of-return LECs, is there any reason for states to prohibit them from providing toll services? Parties should discuss the benefits that might accrue to rural customers if all rate-of-return LECs were permitted to provide interexchange services.

Transit Service Issues

36. Transiting occurs when two carriers that are not directly interconnected exchange non-access traffic by routing the traffic through an intermediary carrier's network. Typically, the intermediary carrier is an incumbent LEC and the transited traffic is routed from the originating carrier through the incumbent LEC's tandem switch to the terminating carrier. Although many incumbent LECs, mostly Bell Operating Companies (BOCs),

currently provide transit service pursuant to interconnection agreements, the Commission has not had occasion to determine whether carriers have a duty to provide transit service. In the *Intercarrier Compensation NPRM*, the Commission sought comment on issues that arise under the current intercarrier compensation rules when calls involve a transit service provider, and how a bill-and-keep regime might affect such calls. In this section, the Commission solicits further comment on whether there is a statutory obligation to provide transit services under the Act, and, if so, what rules the Commission should adopt to advance the goals of the Act.

37. The Commission seeks comment on its legal authority to impose transiting obligations. Assuming that it has the necessary legal authority, the Commission solicits comment on whether it should exercise that authority to require the provision of transit service. If rules regarding transit service are warranted, the Commission seeks comment on the scope of such regulation. The Commission also seeks comment on the need for rules governing the terms and conditions for transit service offerings. Further, if the Commission determines that rules governing transit service are warranted, it seeks additional comment on the appropriate pricing methodology, if any, for transit service.

38. Finally, the Commission recognizes that the ability of the originating and terminating carriers to determine the appropriate amount and direction of payments depends, in part, on the billing records generated by the transit service provider. Thus, the Commission asks carriers to comment on whether the current rules and industry standards create billing records sufficiently detailed to permit the originating and terminating carriers to determine the appropriate compensation due.

CMRS Issues

39. The Commission has previously stated that traffic to or from a CMRS network that originates and terminates within the same Major Trading Area (MTA) is subject to reciprocal compensation obligations under section 251(b)(5), rather than interstate or intrastate access charges. *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket Nos. 96–98 and 95–185, First Report and Order*, 61 FR 45467, August 8, 1996. The Commission reasoned that, because wireless license territories are federally authorized and vary in size, the largest FCC-authorized wireless license territory, *i.e.*, the MTA, would be the most appropriate local service area for CMRS traffic for purposes of reciprocal compensation under section 251(b)(5).

40. Given the goal of moving toward a more unified regime, the Commission seeks comment on whether it should eliminate the intraMTA rule. The Commission further invites commenters to discuss how parties should determine which LEC–CMRS calls are subject to reciprocal compensation in the absence of the intraMTA rule.

CMRS Issues

41. CMRS providers typically interconnect indirectly with smaller LECs via a BOC tandem. While many CMRS providers express willingness to enter into compensation agreements, they also assert that the cost of engaging in a negotiation and arbitration process with small incumbent LECs is often prohibitive due to the small amount of traffic at issue in each individual negotiation. The Commission seeks comment on what measures it might adopt to reduce the costs associated with establishing compensation arrangements.

42. It is standard industry practice for telecommunications carriers to compare the NPA/NXX codes of the calling and called party to determine the proper rating of a call. It may be possible for an originating LEC to change its switch translations so that a call to an NPA/NXX assigned to a rate center that is local to the originating rate center must be dialed on a 1+ basis and rated as a toll call, rather than a local call. A LEC may have the incentive to engage in this practice for a variety of reasons, including increased access revenue, reduced reciprocal compensation payments, and less significant transport obligations. Alternatively, LECs may engage in such practices pursuant to a state requirement.

43. The Commission seeks comment on whether it should modify any part of the existing rating obligations of carriers. Are there any rating issues unique to CMRS providers or is this a concern for other types of competitive carriers? The Commission recognizes that attempts to address some of the rating issues may raise the question of whether preemption of state commission jurisdiction over the retail rating of intrastate calls and the definition of local calling areas is necessary. Parties supporting preemption should comment on the source of the Commission's authority to preempt and the reasons why preemption of retail rating is warranted in this context.

Supplemental Initial Regulatory Flexibility Analysis

44. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Intercarrier Compensation NPRM.* The Commission sought written public comment on reforming the existing intercarrier compensation regime, on alternate approaches to reforming that regime, on whether those alternate approaches will encourage efficient use of and investment in the telecommunications network, on whether they will solve interconnection problems, and on the extent to which they are administratively feasible. The *Intercarrier Compensation NPRM* also sought comment on the IRFA. The Commission received extensive comment in response to the *Intercarrier Compensation NPRM*, including several comments addressing the IRFA directly.

45. With this FNPRM, the Commission continues the process of intercarrier compensation reform. The Commission has prepared this present Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this FNPRM. This Supplemental IRFA conforms to the RFA. Written public comments are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the deadlines for comments established in the FNPRM. To the extent that any statement in this Supplemental IRFA is perceived as creating ambiguity with respect to Commission rules or statements made in sections of this FNPRM that precede this Supplemental IRFA, the rules and statements set forth in those preceding sections are controlling. The Commission will send a copy of this entire FNPRM, including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the FNPRM and the Supplemental IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

46. The Commission's goal in this proceeding is to reform the current intercarrier compensation regimes and create a more uniform regime that

promotes efficient facilities-based competition in the marketplace. As discussed above, the Commission believes that this goal will be served by creating a technologically and competitively neutral intercarrier compensation regime that is consistent with network developments. It is also critical that this regime be implemented in a manner that will provide regulatory certainty, limit the need for regulatory intervention, and preserve universal service.

47. The current intercarrier compensation system is governed by a complex set of federal and state rules. This system applies different cost methodologies to similar services based on traditional regulatory distinctions that may have no bearing on the cost of providing service, are not tied to economic or technical differences between services, and are increasingly difficult to maintain. These regulatory distinctions provide an opportunity for regulatory arbitrage activities, and distort the telecommunications markets at the expense of healthy competition.

48. The current intercarrier compensation system also does not take into account recent developments in service offerings, including bundled local and long distance services, and voice over Internet Protocol (VoIP) services. These developments blur traditional industry and regulatory distinctions among various types of services and service providers, making it increasingly difficult to enforce the existing regulatory regimes. Additionally, the current intercarrier compensation system does not account for recent developments in telecommunications infrastructure. The existing intercarrier compensation regimes are based largely on the recovery of switching costs through per-minute charges. As a result of developments in telecommunications infrastructure, it appears that most network costs, including switching costs, result from connections to the network rather than usage of the network itself. Finally, developments in consumer control over telecommunications services bring into question the assumption that calling parties receive 100 percent of the benefits from a telephone call, a fundamental premise of the current intercarrier compensation regimes.

49. The Commission received several intercarrier compensation reform proposals in response to the NPRM. In this FNPRM, the Commission seeks comment on numerous legal issues it must consider as part of intercarrier compensation reform, whether it adopts one of these proposals or develops a separate approach. Specifically, the Commission seeks comment on whether the cost standards proposed satisfy the requirements of the Act, on the possible exercise of its forbearance authority, and on the appropriate role of state regulation in the intercarrier compensation reform process. The Commission also seeks comment on proposed changes to current interconnection rules.

50. Further, the Commission seeks comment on its obligation to provide cost-recovery mechanisms, the need, if any, for new cost-recovery mechanisms, the appropriate level of different types of cost recovery mechanisms including end-user charges and universal service, and on the impact of replacing access charges with other types of cost recovery mechanisms. The Commission also seeks comment on whether price cap and rate-of-return LECs must be treated equally with regard to cost recovery mechanisms, whether such treatment would be competitively neutral, and the appropriate role for state cost recovery mechanisms. Additionally, the Commission seeks comment on how best to transition from the current regime to unified intercarrier compensation regime. Finally, the Commission seeks comment on additional issues stemming from intercarrier compensation reform including transit service obligations, the appropriate treatment of intraMTA CMRS traffic, interconnection agreement negotiation obligations, and routing and rating of CMRS calls.

Legal Basis

51. The legal basis for any action that may be taken pursuant to this FNPRM is contained in sections 1–5, 7, 10, 201–05, 207–09, 214, 218–20, 225–27, 251–54, 256, 271, 303, 332, 403, 405, 502 and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 151–55, 157, 160, 201–05, 207–09, 214, 218–20, 225–27, 251–54, 256, 271, 303, 332, 403, 405, 502, and 503 and sections 1.1, 1.421 of the Commission's rules, 47 CFR 1.1, 1.421.

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

52. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). 5 U.S.C. 632.

53. In this section, the Commission further describes and estimates the number of small entity licensees and regulatees that may also be indirectly affected by rules adopted pursuant to this FNPRM. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be the data that the Commission publishes in its Trends in Telephone Service report. The SBA has developed small business size standards for wireline and wireless small businesses within the three commercial census categories of Wired Telecommunications Carriers, Paging, and Cellular and Other Wireless Telecommunications. Under these categories, a business is small if it has 1,500 or fewer employees. Below, using the above size standards and others, the Commission discusses the total estimated numbers of small businesses that might be affected by its actions.

54. *Wired Telecommunications Carriers.* The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year. Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

55. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,310 carriers reported that they were incumbent local exchange service providers. Of these 1,310 carriers, an estimated 1,025 have 1,500 or fewer employees and 285 have more than 1,500 employees. In addition, according to Commission data, 563 companies reported that they were engaged in the provision of either competitive access provider services or

competitive local exchange carrier services. Of these 563 companies, an estimated 472 have 1,500 or fewer employees and 91 have more than 1,500 employees. In addition, 37 carriers reported that they were ''Other Local Exchange Carriers.'' Of the 37 ''Other Local Exchange Carriers,'' an estimated 36 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of local exchange service, competitive local exchange service, competitive access providers, and ''Other Local Exchange Carriers'' are small entities that may be affected by the rules and policies adopted herein.

56. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to interexchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 281 companies reported that they were interexchange carriers. Of these 281 companies, an estimated 254 have 1,500 or fewer employees and 27 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by the rules and policies adopted herein.

57. *Wired Telecommunications Carriers.* The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year. Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

58. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,337 carriers reported that they were engaged in the provision of local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted herein.

59. *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs), and ''Other Local Exchange Carriers.''* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to providers of competitive exchange services or to competitive access providers or to ''Other Local Exchange Carriers,'' all of which are discrete categories under which TRS data are collected. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 companies, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees. In addition, 35 carriers reported that they were ''Other Local Service Providers.'' Of the 35 ''Other Local Service Providers,'' an estimated 34 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, and ''Other Local Exchange Carriers'' are small entities that may be affected by the rules and policies adopted herein.

60. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to interexchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 261 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 261 companies, an estimated 223 have 1,500 or fewer employees and 38 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by the rules and policies adopted herein.

61. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to operator service providers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 23 companies reported that they were engaged in the provision of operator services. Of these 23 companies, an estimated 22 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of operator service providers are small entities that may be affected by the rules and policies adopted herein.

62. *Payphone Service Providers (PSPs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to payphone service providers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 761 companies reported that they were engaged in the provision of payphone services. Of these 761 companies, an estimated 757 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by the rules and policies adopted herein.

63. *Prepaid Calling Card Providers.* The SBA has developed a size standard for a small business within the category of Telecommunications Resellers. Under that SBA size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 37 companies reported that they were engaged in the provision of prepaid calling cards. Of these 37 companies, an estimated 36 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by the rules and policies adopted herein.

64. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 133 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 127 have 1,500 or fewer employees and six

have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by its action.

65. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 625 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 590 have 1,500 or fewer employees and 35 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by its action.

66. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to ''Other Toll Carriers.'' This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission's data, 92 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these 92 companies, an estimated 82 have 1,500 or fewer employees and ten have more than 1,500 employees. Consequently, the Commission estimates that most ''Other Toll Carriers'' are small entities that may be affected by the rules and policies adopted herein.

67. *Paging.* The SBA has developed a small business size standard for Paging, which consists of all such firms having 1,500 or fewer employees. According to Census Bureau data for 1997, in this category there was a total of 1,320 firms that operated for the entire year. Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional seventeen firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

68. *Cellular and Other Wireless Telecommunications.* The SBA has developed a small business size standard for Cellular and Other Wireless Telecommunication, which consists of all such firms having 1,500 or fewer employees. According to Census Bureau data for 1997, in this category there was a total of 977 firms that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional twelve firms had employment of 1,000 employees or more. Thus, under this size standard, the majority of firms can be considered small.

69. *Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.'' These standards defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as ''small'' or ''very small'' businesses. Based on this information, the Commission concludes that the number of small broadband PCS licenses will include the 90 winning C Block bidders, the 93 qualifying bidders in the D, E, and F Block auctions, the 48 winning bidders in the 1999 re-auction, and the 29 winning bidders in the 2001 re-auction, for a total of 260 small entity broadband PCS providers, as defined by the SBA small business size standards and the Commission's auction rules. The Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

70. *Narrowband Personal Communications Services.* The Commission has adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order,* 65 FR 35875, June 6, 2000. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas (MTAs) and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future actions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's rules. The Commission assumes, for purposes of this analysis, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

71. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, the Commission applies the small business size standard under the SBA rules applicable to ''Cellular and Other Wireless Telecommunications'' companies. This standard provides that such a company is small if it employs no more than 1,500 persons. According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional

12 firms had employment of 1,000 employees or more. If this general ratio continues in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA's small business size standard.

72. *220 MHz Radio Service—Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order,* 62 FR 15978, April 3, 1997, the Commission adopted a small business size standard for ''small'' and ''very small'' businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business size standard indicates that a ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these small business size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

73. *800 MHz and 900 MHz Specialized Mobile Radio Licenses.* The Commission awards ''small entity'' and ''very small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years, or that had revenues of no more than $3 million in each of the previous calendar years. The SBA has approved these size standards. The Commission awards ''small entity'' and ''very small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz bands to firms that had revenues of no more than $40 million in each of the three previous calendar years, or that had revenues of no more than $15 million in each of the previous calendar years. These bidding credits apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. The Commission assumes, for purposes here, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz SMR bands. There were 60 winning bidders that qualified as small or very small entities in the 900 MHz SMR auctions. Of the 1,020 licenses won in the 900 MHz auction, bidders qualifying as small or very small entities won 263 licenses. In the 800 MHz auction, 38 of the 524 licenses won were won by small and very small entities. The Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

74. *Private and Common Carrier Paging.* In the *Paging Third Report and Order,* 62 FR 16004, April 3, 1997, the Commission developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Trends in Telephone Service,* 471 carriers reported that they were engaged in the provision of either paging and messaging services or other mobile services. Of those, the Commission estimates that 450 are small, under the SBA business size standard specifying that firms are small if they have 1,500 or fewer employees.

75. *700 MHz Guard Band Licensees.* In the *700 MHz Guard Band Order,* 65 FR 3139, January 20, 2000, the Commission adopted a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

76. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS). The Commission uses the SBA's small business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

77. *Air-Ground Radiotelephone Service.* The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. The Commission will use SBA's small

business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small under the SBA small business size standard.

78. *Aviation and Marine Radio Services.* Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category ''Cellular and Other Telecommunications,'' which is 1,500 or fewer employees. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of evaluations in this analysis, the Commission estimates that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a ''small'' business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $15 million dollars. In addition, a ''very small'' business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as ''small'' businesses under the above special small business size standards.

79. *Fixed Microwave Services.* Fixed microwave services include common carrier, private operational-fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for the category ''Cellular and Other Telecommunications,'' which is 1,500 or fewer employees. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 22,015 common carrier fixed licensees and up to 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies adopted herein. The Commission noted, however, that the common carrier microwave fixed licensee category includes some large entities.

80. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. The Commission is unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.

81. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction. A ''small business'' is an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' is an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small business size standards. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as ''very small business'' entities, and one that qualified as a ''small business'' entity. The Commission concludes that the number of geographic area WCS licensees affected by this analysis includes these eight entities.

82. *39 GHz Service.* The Commission created a special small business size standard for 39 GHz licenses—an entity that has average gross revenues of $40 million or less in the three previous calendar years. An additional size standard for ''very small business'' is: an entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by the rules and policies adopted herein.

83. *Local Multipoint Distribution Service.* Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. The auction of the 1,030 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998 and closed on March 25, 1998. The Commission established a small business size standard for LMDS licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. An additional small business size standard for ''very small business'' was added as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards in the context of LMDS auctions. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, the Commission concluded that the number of small LMDS licenses consists of the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers.

84. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the small business size standard was an entity that, together with its affiliates, has no

more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years. In the *218–219 MHz Report and Order and Memorandum Opinion and Order*, 64 FR 59656, November 3, 1999, the Commission established a small business size standard for a ''small business'' as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years. The SBA has approved these size standards. The Commission cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under its rules in future auctions of 218–219 MHz spectrum.

85. *24 GHz—Incumbent Licensees.* This analysis may affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The applicable SBA small business size standard is that of ''Cellular and Other Wireless Telecommunications'' companies. This category provides that such a company is small if it employs no more than 1,500 persons. According to Census Bureau data for 1997, there were 977 firms in this category that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this size standard, the great majority of firms can be considered small. These broader census data notwithstanding, the Commission believes that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. It is the Commission's understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

86. *24 GHz—Future Licensees.* With respect to new applicants in the 24 GHz band, the small business size standard for ''small business'' is an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of $15 million. ''Very small business'' in the 24 GHz band is an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding $3 million for the preceding three years. The SBA has approved these small business size standards. These size standards will apply to the future auction, if held.

87. *Satellite Service Carriers.* The SBA has developed a size standard for small businesses within the category of Satellite Telecommunications. Under that SBA size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 31 carriers reported that they were engaged in the provision of satellite services. Of these 31 carriers, an estimated 25 have 1,500 or fewer employees and six, alone or in combination with affiliates, have more than 1,500 employees. Consequently, the Commission estimates that there are 31 or fewer satellite service carriers which are small businesses that may be affected by the rules and policies proposed herein.

88. *Cable and Other Program Distribution.* This category includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. The SBA has developed small business size standard for this census category, which includes all such companies generating $12.5 million or less in revenue annually. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under $10 million and an additional 52 firms had receipts of $10 million or more but less than $25 million. Consequently, the Commission estimates that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein.

89. *Internet Service Providers.* The SBA has developed a small business size standard for Internet Service Providers (ISPs). ISPs ''provide clients access to the Internet and generally provide related services such as web hosting, web page designing, and hardware or software consulting related to Internet connectivity.'' Under the SBA size standard, such a business is small if it has average annual receipts of $21 million or less. According to Census Bureau data for 1997, there were 2,751 firms in this category that operated for the entire year. Of these, 2,659 firms had annual receipts of under $10 million, and an additional 67 firms had receipts of between $10 million and $24,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by its action.

90. *All Other Information Services.* This industry comprises establishments primarily engaged in providing other information services (except new syndicates and libraries and archives). The Commission notes that, in this FNPRM, it has described activities such as e-mail, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The SBA has developed a small business size standard for this category; that size standard is $6 million or less in average annual receipts. According to Census Bureau data for 1997, there were 195 firms in this category that operated for the entire year. Of these, 172 had annual receipts of under $5 million, and an additional nine firms had receipts of between $5 million and $9,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by its action.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

91. This supplemental IRFA seeks comment on several rule changes and intercarrier compensation reform proposals under consideration that may affect reporting, recordkeeping and other compliance requirements for small entities. The types of rule changes under consideration are described below.

92. Any intercarrier compensation reform measures that achieve the Commission's goal of moving toward a more unified regime will relieve small entities of some administrative, recordkeeping, and other compliance requirements, but may also create new burdens. As discussed within this FNPRM, the Commission is considering, and seeks comment on, several options for moving to a unified intercarrier compensation regime. Each of these options relieves certain compliance burdens that exist under the current system, but no option under consideration would be burden-free. Consequently, in this Supplemental IRFA the Commission seeks comment on burdens to small entities associated with each reform proposal under consideration.

93. Small entities face significant recordkeeping and compliance burdens under the current intercarrier compensation system, including determining the appropriate regulatory category for all traffic they send or receive, measuring the quantity of each

type of traffic, and maintaining administrative systems and processes for intercarrier payments. Additionally, small entities must devote considerable resources to resolving disputes arising due to ambiguities in the rules defining the current intercarrier compensation regimes. A unified intercarrier compensation system with clear rules would reduce the need for small entities to devote resources to these tasks.

Bill-and-Keep

94. Some of the intercarrier compensation reform proposals received in this proceeding are based on a bill-and-keep approach. Under a bill-and-keep approach, carriers would look to their own customers, rather than to other carriers, to recover costs. Carriers, including small entities, might have to modify their systems and processes to reflect this change in cost recovery. These modifications may present a compliance burden to small entities. Any compliance burden, however, may be outweighed by the reduction in burdens associated with the elimination of intercarrier charges. Additionally, carriers, including small entities, already have systems and processes designed to bill customers with which they have a retail relationship. While these systems and processes may have to be modified, these modifications should be similar to those that occur in the normal course of business already.

95. If a bill-and-keep approach were adopted, the current network interconnection rules may have to be revised or replaced. Carriers would have to ensure that their agreements or arrangements with other carriers comply with any new network interconnection rules. Complying with any new or modified interconnection rules may impose a compliance burden on all carriers, including small entities. This burden may be offset by streamlined operation under new interconnection rules that resolve or eliminate the potential for the types of interconnection disputes that arise under the current rules.

96. The bill-and-keep plans under consideration include new universal service mechanisms. Under these plans, carriers will have to determine their costs and demonstrate a shortfall between their costs and revenues in order to qualify for funding from cost recovery mechanisms. Further, some types of carriers, including small entities, may not be eligible for some of the cost recovery mechanisms included in some of the plans. Determining costs, determining eligibility under any new universal service plan, and administration related to any new universal service plan may represent significant burdens to small entities under a bill-and-keep plan.

Unified Calling Party Network Pays (CPNP)

97. The Commission is considering several unified CPNP plans submitted by industry groups comprised of small and medium sized rural LECs and CLECs. Although these proposals are designed to reduce the overall compliance burdens associated with each compensation regime by applying the same rate to all types of traffic, they may cause certain specific compliance burdens to increase.

98. Under any CPNP approach, carriers would continue to look to other carriers to recover a portion of their costs, and would have to maintain systems and processes to bill other carriers for these new charges. The cost standard that would be used to determine the rates varies with each plan. Under plans that apply a TELRIC or embedded cost methodology, carriers may need to perform cost studies using a methodology they have not previously used. Such cost calculations potentially represent a significant compliance and recordkeeping burden for small entities. Moreover, some of the unified CPNP plans under consideration in this proceeding propose rates that would vary by carrier and/or by state. If such plans were adopted, carriers would have to design and implement administrative systems that track the origin and destination of traffic and account for differing state or carrier rates. Developing and implementing such administrative systems may present a significant compliance burden for small entities.

99. The FNPRM seeks comment on the need for new or revised network interconnection rules. Some of the CPNP plans submitted for consideration in this proceeding retain the current network interconnection rules. Varying and inconsistent interpretations of these interconnection rules have led to numerous disputes and uncertainty about how the rules are to be applied. A CPNP plan that retains the current network interconnection rules will inherit this uncertainty surrounding the existing rules. Any changes in such rules also could result in new burdens for some carriers.

100. Adoption of a unified CPNP plan may necessitate changes in interconnection agreements. Interconnection agreements may be premised on rates that would be modified under a unified CPNP plan. Similarly, any change in interconnection rules could lead to renegotiation of agreements. Carriers, including small entities, would likely seek to renegotiate their existing interconnection agreements as a result of any new regime. Renegotiation of existing interconnection agreements may present a significant burden to small entities under a CPNP approach.

101. Each of the unified CPNP plans under consideration assumes revenue neutrality for incumbent LECs with significant funding coming from universal service mechanisms. Some of the plans also include new universal service mechanisms. Under some plans, carriers will have to determine their costs and demonstrate a shortfall between their costs and revenues in order to qualify for funding from cost recovery mechanisms. Further, some types of carriers, including small entities, may not be eligible for some of the cost recovery mechanisms included in some of the plans. Determining costs, determining eligibility under any new universal service plan, and administration related to any new universal service plan may represent significant burdens to small entities under a unified CPNP plan.

Other Issues

102. In this FNPRM, the Commission seeks comment on several issues related to transit service. If, as a result of this FNPRM, new rules related to transit service come into existence, these rules may impose burdens on some entities. Rules imposing transit service obligations would likely have no significant impact on ILECs already providing, or carriers already using transit service. For carriers that would be affected, the burdens may include determining the price of transit service purchased or provided, and developing additional administrative capabilities to account for providing or receiving transit service.

103. The Commission also seeks comment regarding possible changes to the intraMTA rule, negotiation of CMRS interconnection agreements, and rating of CMRS traffic, as discussed in this FNPRM. If the Commission changes the intraMTA rule, or otherwise changes parties' obligations, the new rules will likely relieve some burdens, including lowering the level of resources carriers must devote to resolving disputes arising from ambiguities in the current rules. Carriers may also experience burdens associated with bringing operations and interconnection agreements into compliance with the new rules.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

104. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

105. In this FNPRM, the Commission seeks comments on a variety of intercarrier compensation reform plans submitted in the record in this proceeding, as well as on other issues related to reform of the existing intercarrier compensation system. The Commission is aware that some of the proposals under consideration may create burdens for small entities. Consequently, the Commission seeks comments on alternatives that will minimize burdens, discussed below.

106. Several commenters have expressed a preference for maintaining a CPNP regime, and have submitted plans to replace or reform the current intercarrier compensation system with a more unified CPNP approach. For instance, the ARIC plan includes a single rate based on embedded costs for each carrier. The EPG plan uses current interstate access rates as a cost standard. The CBICC plan uses the TELRIC costs of ILEC tandem switching to determine the intercarrier compensation rate. The Commission seeks comment on the economic impact on small entities of these plans relative to other plans contained in the record, and to a bill-and-keep approach.

107. One non-unified option under consideration for intercarrier compensation system reform is to maintain a CPNP based system without immediately adopting a unified approach. For instance, NASUCA recommends a plan that reduces intrastate access charges over a five-year transition period, and then moves to more unified rates.

108. Another non-unified approach the Commission is considering includes use of an incremental cost methodology to meet the section 252(d) ''additional cost'' standard for reciprocal compensation. The Commission seeks comment on the economic impact of such a plan relative to other plans contained in the record, and to a bill-and-keep approach.

109. Throughout this proceeding, the Commission has recognized the unique needs and interests of small entities. In this FNPRM the Commission seeks comment on several issues and measures under consideration that are uniquely applicable to small entities. Specifically, the Commission seeks comment on whether any intercarrier compensation reform measures adopted should be revenue neutral. The Commission also seeks comment on the impact of reduced intercarrier revenues to small entities in the event that a bill-and-keep approach is adopted.

110. The Commission also seeks comment on whether separate network interconnection rules are necessary or appropriate for small entities, such as rate-of-return carriers. Parties responding to this supplemental IRFA supporting such an approach should explain how separate rules would be structured, and what criteria would be used to determine whether an entity qualified to use the separate rules.

111. Additionally, the Commission seeks comment on whether separate cost recovery mechanisms unique to small entities are necessary or appropriate. Parties responding to this Supplemental IRFA in support of separate cost recovery mechanisms for small entities should explain how the separate cost recovery mechanisms would operate, how they would be funded, and what criteria would be used to determine what entities qualify for funding from the separate mechanisms. Further, the Commission seeks comment on the feasibility of retaining an intercarrier compensation mechanism for small entities only, while moving to another system (*e.g.* bill-and-keep) for all other entities. Parties advocating this approach should explain how a system of intercarrier payments available only to small entities would be integrated with another intercarrier compensation mechanism, such as a bill-and-keep system, that is in place for other carriers.

112. Finally, the Commission seeks comment on whether separate consideration for small entities is necessary or appropriate for each of the following issues previously discussed in this FNPRM: The potential impact of rules imposing transit service obligations; the potential impact of rules related to negotiation of CMRS interconnection; and the potential impact of rules related to rating and routing of CMRS traffic.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

113. Implementation of any of the rule changes the Commission is considering in this FNPRM may require extensive modifications to existing Federal Rules. The need for modifications does not necessarily mean that the new rules duplicate, overlap, or conflict with existing rules. Rather, amendments to the existing rules would be necessary to codify the policies the Commission adopts. The sections of the Commission's rules that would likely have to be amended include, without limitation, the following: Part 32: Uniform System of Accounts for Telecommunications Companies; Part 36: Jurisdictional Separations Procedures; Standard Procedures for Separating Telecommunications Property Costs, Revenues, Expenses, Taxes, and Reserves for Telecommunications Companies; Part 51: Interconnection; Part 54: Universal Service; Part 61: Tariffs; and Part 69: Access Charges.

Comment Filing Procedures

114. Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments by May 23, 2005 and reply comments by June 22, 2005. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/cgb/ecfs/*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of the proceeding, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, in this case, CC Docket No. 01–92. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional

copies for each additional docket or rulemaking number.

115. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). Parties are strongly encouraged to file comments electronically using the Commission's ECFS.

116. The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

—The filing hours at this location are 8 a.m. to 7 p.m.
—All hand deliveries must be held together with rubber bands or fasteners.
—Any envelopes must be disposed of before entering the building.
—Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
—U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

117. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties should also send a copy of their filings to Victoria Goldberg, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5–A266, 445 12th Street, SW., Washington, DC 20554, or by e-mail to *victoria.goldberg@fcc.gov.* Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com.*

118. Documents in CC Docket No. 01–92 are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW., Room CY–A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, e-mail *fcc@bcpiweb.com.*

Initial Paperwork Reduction Act Analysis

119. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any proposed ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Ordering Clauses

120. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1–5, 7, 10, 201–05, 207–09, 214, 218–20, 225–27, 251–54, 256, 271, 303, 332, 403, 405, 502 and 503 of the Communications Act of 1934, as amended, 47 U.S.C. 151–155, 157, 160, 201–05, 207–09, 214, 218–20, 225–27, 251–54, 256, 271, 303, 332, 403, 405, 502, and 503 and sections 1.1, 1.421 of the Commission's rules, 47 CFR 1.1, 1.421, *notice is hereby given* of the rulemaking and *comment is sought* on those issues.

121. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Further Notice of Proposed Rulemaking, including the Supplemental Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–5859 Filed 3–23–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05–654; MB Docket No. 05–102; RM–10630]

Radio Broadcasting Services; Akron and Denver, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by Akron Broadcasting Company (''Petitioner''), seeking to amend the FM Table of Allotments by allotting Channel 279C1 at Akron, Colorado, as the community's first local aural transmission service. Petitioner's proposal also requires the reclassification of Station Station KRFX(FM), Denver, Colorado, Channel 287C to specify operation on Channel 278C0.KURB(FM), Channel 253C, Little Rock, Arkansas 253C0 pursuant to the reclassification procedures adopted by the Commission. *See* Second Report and Order in MM Docket 98–93 (1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules) 65 FR 79773 (2000). An Order to Show Cause was issued to Jacor Broadcasting of Colorado, Inc. (''Jacor''), licensee of Station KRFX(FM), Denver, Colorado, affording it 30 days to express in writing an intention to seek authority to upgrade its technical facilities to preserve Class C status, or otherwise challenge the proposed action (RM–10630). Channel 279C1 can be allotted at Akron, Colorado, at Petitioner's requested site 24.5 kilometers (15.2 miles) southeast of the community at coordinates 40–03–28 NL and 102–57–35 WL.

DATES: Comments must be filed on or before May 5, 2005, and reply comments on or before May 20, 2005. Any counterproposal filed in this proceeding need only protect Station KRFX(FM), Denver, Colorado as a Class C0 allotment.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the Petitioner, and Station KRFX's licensee as follows: John M. Pelkey, Esq., Garvey, Schubert Barer, 1000 Potomac Street, NW., Washington, DC 20007 (Counsel to Akron Broadcasting Company). Jacor Broadcasting of Colorado, Inc., c/o Marissa G. Repp, Esq., Hogan & Hartson L.L.P., Columbia Square, 555 13th St., NW., Washington, DC 20004–1109.

FOR FURTHER INFORMATION CONTACT: Victoria McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 05–102, adopted March 9, 2005, and released March 14, 2005. As noted, an Order to Show Cause was issued to Jacor Broadcasting of Colorado, Inc., licensee of Station KRFX(FM), Denver, Colorado, affording it 30 days to express in writing an intention to seek authority to upgrade its technical facilities to preserve Class C status, or otherwise challenge the proposed action. Jacor responded and filed the necessary application (File No. BPH–20030424AAO) which was granted and then rescinded. *See Public Notice*, Report No. 25498 (June 3, 2003). On November 9, 2004, that application (File No. BPH–20030424AAO) was dismissed. *See Letter to Marissa G. Repp, Esq.*, BPH–20030424AAN, *et al.*, Reference 1800B3 (Chief, Audio Div.